APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,814	08/31/2001	Jennifer L. Melin	10017699-1	1388

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HEWLETT-PACKARD COMPANY
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EXAMINER
CONNOLLY, MARK A

ART UNIT	PAPER NUMBER
2115	

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _31 August 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-24_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-24_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-24 have been presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Referring to claim 1, the claimed invention is directed to non-statutory subject matter.

The invention must be tangible and for examination purposes the "computer program for use in a

computer" has been interpreted as a "computer program on a computer readable medium for use

in a computer."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 4, 8, 11, 12, 15, 18 and 20-21 are rejected under 35 U.S.C. 102(a) as being

anticipated by Heald, "AUTOEXEC.BAT FILES."

6. Referring to claim 1, Heald teaches the invention including:

a. determining a plurality of application programs that are to be launched by the

operating system [pg. 1]. The programs to launch are determined from reading them

within the batch file.

b. determining a program launch procedure associated with the application

programs, the program launch procedure defining a sequence in which the application

programs are to be launched by the operating system, the sequence based on the

functionally of at least one of the application programs [pgs. 1-4]. Launching different

programs through the menu is interpreted as defining a sequence based on the

functionality of the programs because the user has control over which program(s) to load

depending on their current needs.

 c. launching the application programs with the operating system based on the

program launch procedure [pg. 1].

7. Referring to claim 4, Heald teaches that the user specifies the launch procedure [pg 1].

8. Referring to claims 8 and 11, these are rejected on the same basis as set forth

hereinabove. Nutt teaches the program and therefore teaches the method performed by the

program.

9. Referring to claim 15, the AUTOEXEC.BAT file is required during the startup of a

computer system, therefore it is interpreted that a reference to the batch file is always resident in

a system initialization program. Because the reference always exists, during each subsequent

boot procedure, the operating system would inherently be initialized after the reference is stored.

10. Referring to claims 18 and 20, these are rejected on the same basis as set forth

hereinabove. Nutt teaches the program and therefore teaches the method performed by the

program.

11. Claims 1-2, 6-10, 14, 18-19 and 23-24 are rejected under 35 U.S.C. 102(a) as being

anticipated by Nutt, Operating Systems: A Modern Perspective.

12. Referring to claim 1, Nutt teaches the invention including:

d.   determining a plurality of application programs that are to be launched by the

operating system [pg. 156]. Loading of multiple application processes is interpreted as

being the same as loading multiple application programs because application programs

being executed by the processor are processes.

e.   determining a program launch procedure associated with the application

programs, the program launch procedure defining a sequence in which the application

programs are to be launched by the operating system, the sequence based on the

functionally of at least one of the application programs [pgs. 155 and 162 –165]. Nutt

teaches that a scheduler determines how to launch competing processes with respect to

execution time and/or priority of each individual process.

f.   launching the application programs with the operating system based on the

program launch procedure [pgs. 155 and 162 –165].

13.   Referring to claim 2, Nutt teaches launching one of the application programs and after a

predetermined length of time, launching another of the application programs [pg. 155].

14.   Referring to claim 6, Nutt teaches that processes are allocated only a limited amount of

time for execution [pg 173 *see 7.4.1 Round Robin*]. Because the execution time is limited, it is

interpreted as a restriction.

15.   Referring to claim 7, Nutt teaches that the operating system implements the scheduler,

which launches the application processes [pg. 156].

16.   Referring to claim 8, this is rejected on the same basis as set forth hereinabove.

Furthermore, Nutt teaches that there exists a list of the current competing processes ready to be

executed [pgs. 156 and 162]. It is well known that operating systems comprise system

initialization programs, which are responsible for launching a plurality of programs during

system initialization. These programs to be executed are interpreted as competing processes

since all programs are ready to be executed. It is inherent that during system initialization, that

there would be a reference to the scheduler in order for the processes to be scheduled for

execution.

17.   Referring to claim 9, it is inherent that the application programs must be installed before

a system initialization program can reference them to be executed.

18.   Referring to claims 10 and 14, these are rejected on the same basis as set forth

hereinabove. Nutt teaches the program and therefore teaches the method performed by the

program.

19.   Referring to claim 16, Nutt teaches using a Windows-based operating system [pgs. 177-

178].

20.   Referring to claim 17, it is well known in the art that Windows comprises a RunOnce key

in the system registry which is involved with program initialization.

21.   Referring to claims 18, 19 and 23-24, these are rejected on the same basis as set forth

hereinabove. Nutt teaches the program and therefore teaches the method performed by the

program.

Claim Rejections - 35 USC § 103

22.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

23.   Claims 3, 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Heald as applied to claims 1, 4, 8, 11, 12, 15, 18 and 20-21 above and further in view of Santerre

et al [Santerre] US Pat No 6430706.

24.   Referring to claim 3, Although Heald teaches launching application programs; it is not

explicitly taught that in the event of a predetermined contingency, launching another of the

application programs. Santerre explicitly teaches that if an operation fails during loading that the

system should proceed to the next operation [fig 2, col. 1 lines 30-33 and col. 5 lines 37-43]. It

would have been obvious to one of ordinary skill in the art at the time of the invention to include

the teachings of Santerre into the Heald system so that in the event of an error during the booting

process, the Heald system would not be prevented from completing its boot-up. An error is

interpreted as a predetermined contingency and a booting is interpreted as launching applications

since applications are launched during a booting process.

25.   Referring to claims 11 and 20, these are rejected on the same basis as set forth

hereinabove. Nutt teaches the program and therefore teaches the method performed by the

program.

26.   Claims 5, 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nutt

as applied to claims 1, 2, 6-10, 14, 16-19 and 23-24 above.

27.   Referring to claim 5, in order to determine the program launch procedure the scheduler

must know which programs need to be launched. It is well known that in a Windows system,

during a systems initial startup, multiple programs need to be launched which are specified in a

file called AUTOEXEC.BAT. It is obvious that the Nutt system would read the

AUTOEXEC.BAT file in order to determine the programs required to load so that the Nutt

system could startup properly. Furthermore it is obvious that the scheduler would be notified of

these programs so that it can determine the correct launch procedure.

28.   Referring to claims 13 and 22, these are rejected on the same basis as set forth

hereinabove. Nutt teaches the program and therefore teaches the method performed by the

program.

Conclusion

29.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mark Connolly whose telephone number is (571) 272-3666. The

examiner can normally be reached on M-F 8AM-5PM (except every first Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thomas C Lee can be reached on (571) 272-3667. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Connolly
Examiner
Art Unit 2115

mc
October 20, 2004

THOMAS LEE
SUPERVISOR PATENT EXAMINER
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